

Ware, Ethan

From: Ware, Ethan
Sent: Tuesday, October 04, 2016 5:11 PM
To: 'rdunnagan@bgf.com'
Subject: HIGHLAND INDUSTRIES: BGF Letter [IWOV-IWOVRIC.FID1622654]

Robby-

Thanks for taking our call today. As discussed, Highlands has been asked as current owner of the former Burlington plant in Cheraw to respond to a release of PCBs from prior operations there, but Highland has not operated any business units involving PCB pigments or finishes. A meeting is scheduled at DHEC (State of South Carolina Department of Health and Environmental Control) for next Thursday at 10:00 am to discuss the most recent round of PCB data. Highland requests BGF be present. It may be beneficial for BGF and Highland to meet after the DHEC meeting. In any event, we think this is an urgent matter for your legal team and are happy to discuss the meeting and DHEC Notice letter with your legal counsel at any time.

Please let us know if BGF or its legal counsel will attend the DHEC meeting or have questions.

Attorneys for Highland Industries, Inc.

Ethan R. Ware.

Ethan Ware
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From: Childers, Kristie
Sent: Tuesday, October 04, 2016 4:57 PM
To: Ware, Ethan
Subject: BGF Letter





Ltr to R. Dunnagan
w Attachmen...

Kristie Childers
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WILLIAMS MULLEN

Ethan R. Ware
Direct Dial: 803.567.4610
eware@williamsmullen.com

October 4, 2016

VIA ELECTRONIC MAIL & U.S. MAIL

Robby Dunnagan
President
BGF Industries, Inc.
3802 Robert Porcher Way
Greensboro, North Carolina 27410

Re: Notification of Liability
Former Burlington Industries, Inc. Site
Chesterfield County, South Carolina

Dear Mr. Dunnagan:

We represent Highland Industries, Inc. ("Highland"). We are writing to notify BGF Industries, Inc. ("BGF") and related entities of potential liability for contamination of residences and industrial properties at or near Cheraw, South Carolina, and request your participation at a meeting with the South Carolina Department of Health and Environmental Control (DHEC) to discuss the contamination. This is an urgent legal matter and we request it receive immediate attention.

BACKGROUND

Former Burlington Industries, Inc. ("Burlington") owned and operated a fiberglass dyeing and finishing facility in Cheraw, South Carolina ("Site"). From 1961 to about 1970, the company discharged a "green fluid" into the Western Ditch along the Burlington property line without pretreatment; the Western Ditch drains through a nearby neighborhood ("the Neighborhood") to the Great Pee Dee River. The discharge may have reached 250,000 gallons per day (gpd). From 1970 to 1974, the Burlington Facility installed a series of pretreatment tanks, no-discharge ponds, and sludge drying beds to manage the wastewater prior to discharge to a local publicly owned treatment works (POTW). Corporate records indicate Burlington conveyed the Cheraw fiberglass business to BGF, and in 1988, Highland purchased the plant and remaining textile industrial fabrics business.

On September 16, 2016, Highland received the enclosed DHEC General Notice Letter ("Highland Letter"). [Attachment A]. The Letter states DHEC discovered high levels of polychlorinated biphenyls (PCBs) and pesticides throughout the Neighborhood adjoining the Western Ditch, the former Burlington plant Site, and the area where wastewater ponds and sludge drying beds existed. DHEC reported the PCB levels in the Neighborhood adjoining the former Burlington Site are the highest ever recorded in the State of South Carolina. Leaflets provided to residents in the area state the toxicological risks of PCBs to human health and warn residents of the Neighborhood not to enter contaminated areas. [Attachment B].

NOTIFICATION OF LIABILITY

Pursuant to The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as the federal "Superfund" law, DHEC and EPA are responsible for responding to the release or threat of release of hazardous substances, pollutants, or contaminants into the environment. PCBs and pesticides detected at the Site and the Neighborhood are listed as hazardous substances. EPA and DHEC documented the release of PCBs and pesticides occurred at the Site and spent, or is considering spending, public funds to investigate and control releases of hazardous substances or potential releases of hazardous substances at the Site.

Based on information presently available, Highland has determined your company may be responsible under CERCLA for cleanup of the Site or costs EPA and DHEC incurred investigating the Site. Under CERCLA, specifically Sections 106(a) and 107(a), potentially responsible parties (PRPs) may be required to perform cleanup actions to protect the public health, welfare, or the environment. PRPs may also be responsible for costs incurred by EPA or a State cleaning up the Site, unless the PRP can demonstrate divisibility or assert one of the statutory defenses. PRPs include current and former owners and operators of a Site, successors in interest to former owners or operations of a Site, and persons who arranged for treatment and/or disposal of any hazardous substances found at the Site.

Based on the information collected, Highland believes BGF may be liable under Section 107(a) of CERCLA with respect to the Site, as an (1) arranger, who by contract or agreement, arranged for the disposal, treatment, or transportation of PCBs and pesticides at the Site or (2) current or previous owner and/or operator of the Site as a successor to Burlington.

To date, DHEC and EPA have undertaken the following response action[s] at the Site under the authority of the Superfund Program:

1. Site Reconnaissance (January, 2016);
2. Sediment and Soil Sampling and Analysis (August 12, 2016) [Attachment C]
3. Supplemental Sampling and Analysis (September 12, 2016); and
4. Notifications of PCB Results to specific residents in the Neighborhood (September 16, 2016) [Attachment D].

REQUESTED ACTION

A meeting is scheduled October 13, 2016, at 10:00 A.M. with Sarah Bazemore, Esquire, Assistant General Counsel, DHEC, to discuss the response action and related information to the release of PCBs and pesticides at the former Burlington plant site. We request you or your representative be present. DHEC is located at the following address:

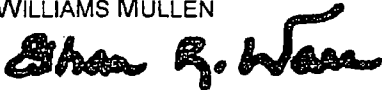
South Carolina Department of Health and Environmental Control
2600 Bull Street
Columbia, South Carolina

We understand EPA and DHEC intend to initiate immediate response actions in the Neighborhood, if BGF and/or Highland are not willing to meet or unable to participate in discussions on the Site.

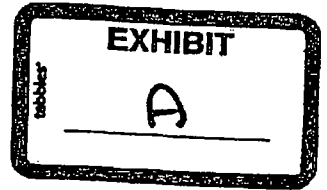
Page 3

Please feel free to have your legal advisors contact us, if there are any questions. We would appreciate you letting us know if BGF intends to participate in the October 13, 2016, DHEC meeting before close of business on October 11, 2016.

Sincerely,
WILLIAMS MULLEN


Ethan R. Ware

ERW:kc
Attachments



September 16, 2016

Via Email and US Mail

Ms. Cheryl D. Malloy
Vice President, EHS
TK Holdings, Inc.
1350 Bridgeport Drive, Suite 1
Kernersville, NC 27284

**Re: Highland Industries Facility (former Burlington Industries Cheraw) Site
General Notice Letter
Chesterfield County, South Carolina**

Dear Ms. Malloy:

Thank you for taking the time on Monday to discuss the South Carolina Department of Health and Environmental Control's (the Department) ongoing investigation of the release of hazardous substances, pollutants, or contaminants at and in the vicinity of the Highland Industries, Inc., Cheraw (former Burlington Industries Cheraw) facility (or Site) located at 650 Chesterfield Highway, Cheraw, SC. As we discussed, the Department's ongoing environmental investigation has identified high levels of polychlorinated biphenyls (PCBs) and pesticides at numerous locations, including soils on the facility property, at multiple nearby residences, and in sediments of the drainage ditch/creek which originates from the northwest portion of the facility and heads downgradient to the north of the facility. Based on these findings, the Department has determined the Site meets the National Oil and Hazardous Substances Pollution Contingency Plan (NCP, 40 CFR, part 300) criteria for a time-critical removal action. For your information, a copy of the Department's sampling results and a KMZ file with sampling locations will be forwarded to you electronically.

As we discussed, the Department is continuing to investigate the extent of PCB and pesticide contamination and will be collecting additional samples during the week of September 19, 2016. The Department is also investigating the ability and willingness of persons connected with the contamination to perform additional response/cleanup actions.

General Notice of Potential Liability

This letter is to notify you of potential liability that Highland Industries, Inc., and TK Holdings, Inc., and any parent, subsidiary, successor, predecessor, or related parties (hereinafter collectively referred to as "Highland" or "Takata") may incur or may have incurred with respect to the Site. Based on information received during the investigation of the Site, the Department

Ms. Cheryl D. Malloy
September 16, 2016
Page 2

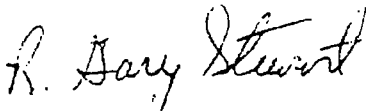
believes that Highland may be a responsible party under CERCLA § 107(a), 42 U.S.C. § 9607(a). Liability is defined by CERCLA § 107(a), as adopted by the South Carolina Hazardous Waste Management Act, S.C. Code Ann. § 44-56-200. Potentially Responsible Parties (PRPs) under CERCLA and state law generally include the following: 1) the current owners and operators of the facility; 2) any person who at the time of disposal of any hazardous substances owned or operated any facility at which hazardous substances were disposed of; 3) any person who by contract, agreement, or otherwise arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous substances owned or possessed by such person or by any other party or entity at the facility; and 4) any person who accepts or accepted any hazardous substances for transport to disposal or treatment facilities and selected such facilities.

This letter also provides notice to Highland that, due to the time-critical nature of the response actions, the Department is **not** using the special notice procedures of CERCLA § 122(e), 42 U.S.C. § 9622(e) to formally negotiate terms of an agreement or settlement to conduct site response activities. As we discussed on the phone, the Department is interested in meeting with Highland to discuss the findings of our investigation and the potential involvement of Highland in future response actions. The Department suggests meeting during the week of September 19 and will be in contact to coordinate a date and time.

Because the Site poses a hazard to human health and the environment, the Department recommends that you give this matter your immediate attention. Should Highland wish not to address the contamination at the Site, the Department will evaluate other alternatives for addressing the Site through the State and Federal Superfund Programs.

If you have any questions regarding this matter, you may contact me at 803-898-0778 or Ken Taylor at 803-898-0835. Thank you for your attention to this issue.

Very truly yours,



R. Gary Stewart, P.E., Manager
State Remediation Section
Bureau of Land and Waste Management

Cc: Buck Graham, Pee Dee Regional Office
G. Kendall Taylor, BLWM
Judy Canova, BLWM
David Wilkie, BLWM
Sara Bazemore, OGC
BLWM File 58341

Sample Location ID	Date	Chloride Reading	PCB Screening Results (ppm)	Aroclor 1248 (Lab ppm)	Aroclor 1254 (Lab ppm)	Total PCBs Lab results (ppm)
Blank 000	8/22/2016	4.8	10.6			0.000
SAND	8/22/2016	1.04	2.3			0.000
BL-SD-01	8/22/2016	49.7	110	550.000	360.000	910.000
BL-DS-01	8/22/2016	62.4	138			0.000
BL-SD-1B	8/23/2016	5.46	*12.1	160.000		160.000
BL-DS-1B	8/23/2016	21.9	48.6	230.000		230.000
BL-SD-02	8/22/2016	16.2	36.0			0.000
BL-DS-02	8/22/2016	20.4	45.2			0.000
BL-SD-2B	8/23/2016	23.2	51.4			0.000
BL-DS-2B	8/23/2016	18.4	40.9			0.000
BL-SD-03	8/22/2016	NA	56.6			0.000
BL-DS-03	8/22/2016	19.3	42.8			0.000
BL-SD-04	8/22/2016		79.1	260.000	240.000	500.000
BL-DS-04	8/22/2016	34.4	76.3	560.000	450.000	1010.000
BL-DS-04	8/22/2016	72.9	161	780.000	730.000	1510.000
BL-SD-05	8/22/2016	66.4	147	150.000	150.000	300.000
BL-DS-05	8/22/2016	69.0	153			0.000
BL-SD-06	8/22/2016	108	240	1000.000	660.000	1660.000
BL-DS-06	8/22/2016	247	547	1900.000	880.000	2780.000
BL-SD-07	8/23/2016	78.4	173			0.000
BL-DS-07	8/23/2016	79.1	175			0.000
BL-SD-08	8/23/2016	32.9	73.1			0.000
BL-DS-08	8/23/2016	34.8	77.1			0.000
BL-SD-09	8/23/2016	76.5	169	340.000	260.000	600.000
BL-DS-09	8/23/2016	238	528	1300.000	710.000	2010.000
BL-SD-10	8/23/2016	14	31.1			0.000
BL-DS-10	8/23/2016	37	82.0			0.000
BL-SD-11	8/23/2016	30.9	68.5			0.000
BL-DS-11	8/23/2016	NA	23.6			0.000
BL-SS-11A	8/25/2016	24.4	54.2			0.000
BL-SB-11A	8/25/2016	1.74	3.87			0.000
BL-SD-12	8/23/2016	0.6	1.34			0.000
BL-DS-12	8/23/2016	1.05	2.34			0.000
BL-SD-13	8/23/2016	13.9	30.8	110.000	73.000	183.000
BL-DS-13	8/23/2016	44.9	99.7	81.000	56.000	137.000

BL-SD-14	8/23/2016	16.9	37.6			0.000
BL-DS-14	8/23/2016	49.8	110	85.000		85.000
BL-SD-15	8/23/2016	13	28.8			0.000
BL-DS-15	8/23/2016	17	37.8			0.000
BL-SD-16	8/23/2016	17	*37.7	89.000	70.000	159.000
BL-DS-16	8/23/2016	19.5	*43.3			0.000
BL-SD-17	8/23/2016	6.95	15.4			0.000
BL-DS-17	8/23/2016	12.9	28.7			0.000
BL-SD-18	8/23/2016	5.37	11.9	250.000		250.000
BL-DS-18	8/23/2016	34.3	76.1	110.000	82.000	192.000
BL-SD-19	8/23/2016	1.12	2.49	0.100		0.100
BL-SD-19 DUP?				0.047	0.045	0.092
BL-DS-19	8/23/2016	1.33	2.95	0.067		0.067
L-POOP-19	8/23/2016	0.79	1.75			0.000
BL-SD-20	8/23/2016	0.65	*1.45			0.000
BL-DS-20	8/23/2016	2.03	*4.5			0.000
BL-SD-21	8/23/2016	1.01	2.24			0.000
BL-DS-21	8/23/2016	1.00	2.23			0.000
BL-SD-22	8/24/2016	0.8	*1.79			0.000
BL-DS-22	8/23/2016	1.63	3.63			0.000
BL-SD-23	8/23/2016	1.03	2.29			0.000
BL-DS-23	8/23/2016	1.04	2.31			0.000
BL-SD-24	8/23/2016	1.19	2.64			0.000
BL-DS-24	8/23/2016	0.72	1.60			0.000
BL-SB-24	8/24/2016	NA	2.73			0.000
BL-SD-25	8/23/2016	1.24	2.75			0.000
BL-DS-25	8/23/2016	1.12	2.48			0.000
BL-SD-26	8/24/2016	NA	DNM			0.000
BL-DS-26	8/24/2016	NA	DNM			0.000
BL-SS- 27A	8/24/2016	2.71	6.00			0.000
BL-SB- 27A	8/24/2016	3.06	6.78			0.000
BL-SB- 27A-24	8/24/2016	2.09	4.64			0.000

BL-SS-27B	8/24/2016	4.52	10			0.000
BL-SB-27B	8/24/2016	0.9	2.00			0.000
BL-SS-27C	8/24/2016	1.17	2.59			0.000
BL-SB-27C	8/24/2016	1.47	3.26			0.000
BL-SS-27D	8/24/2016	5.14	11.4	68.000	37.000	105.000
BL-SB-27D	8/24/2016	4.91	10.8			0.000
BL-SS-27E	8/24/2016	4.76	10.5			0.000
BL-SS-27F	8/24/2016	2.48	5.5			0.000
BL-SB-27F	8/24/2016	1.81	4.01			0.000
BL-SB-27G	8/24/2016	1.73	3.83			0.000
BL-SS-28	8/24/2016	136	301	1500.000	1300.000	2800.000
BL-SB-28	8/24/2016	91.3	202	62.000	67.000	149.000
BL-SS-29	8/24/2016	0.77	1.70			0.000
BL-SB-29	8/24/2016	0.67	1.50			0.000
BL-SS-30A	8/24/2016	0.95	2.11			0.000
BL-SB-30A	8/24/2016	0.78	*1.73			0.000
BL-SS-30B	8/24/2016	0.79	*1.75			0.000
BL-SB-30B	8/24/2016	1.36	3.01			0.000
BL-SS-31	8/24/2016	1.62	3.59			0.000
BL-SB-31	8/24/2016	NA	2.55			0.000
BL-SS-32	8/24/2016	NA	*6.82			0.000
BL-SS-33	8/24/2016	2.6	*5.76			0.000
BL-SB-33	8/24/2016	NA	2.24			0.000
BL-SS-34	8/24/2016	5.27	11.6			0.000
BL-SB-34	8/24/2016	2.52	5.59			0.000

BL-SS-35	8/24/2016	1.16	2.58			0.000
BL-SB-35	8/24/2016	2.35	5.23			0.000
BL-SS-36	8/24/2016	0.9	1.99			0.000
BL-SB-36	8/24/2016	NA	**64.4			0.000
BL-SS-37	8/24/2016	0.19	0.42			0.000
BL-SB-37	8/24/2016	1.08	2.39			0.000
BL-SS-38	8/24/2016	1.35	3.00			0.000
BL-SB-38	8/24/2016	1.69	3.76			0.000
BL-SS-39	8/24/2016	8.79	19.4	0.020	0.027	0.047
BL-SB-39	8/24/2016	NA	1.43			0.000
BL-SS-40	8/24/2016	1.18	2.62			0.000
BL-SB-40	8/24/2016	2.79	6.19			0.000
BL-SS-41	8/24/2016	1.69	3.75			0.000
BL-SB-41	8/24/2016	1.32	2.93			0.000
BL-SS-42	8/24/2016	2.07	4.59			0.000
BL-SB-42	8/24/2016	2.03	4.50			0.000
BL-SS-43	8/24/2016	1.69	3.76			0.000
BL-SB-43	8/25/2016	1.43	3.17			0.000
BL-SS-44	8/25/2016	2.81	6.24			0.000
BL-SB-44	8/25/2016	0.75	1.66			0.000
BL-SS-45	8/25/2016	1.16	2.57			0.000
BL-SB-45	8/25/2016	1.37	3.04			0.000
BL-SS-46	8/24/2016	1.99	4.42			0.000
BL-SS-47	8/24/2016	1.92	4.27			0.000
BL-SB-47	8/24/2016	1.24	2.76			0.000

BL-SS-48	8/25/2016	30.1	66.7	490.000	590.000	1080.000
BL-SS-48A	8/25/2016	1.33	2.95	4.900	7.900	12.800
BL-SS-48B	8/25/2016	1.39	3.09	4.100	6.700	10.800
BL-SS-51	8/25/2016	0.63	1.41			0.000
BL-SS-52	8/25/2016	3.51	7.79	41.000	63.000	104.000
BL-SS-52A	8/25/2016	1.44	3.21	110.000	110.000	220.000
BL-SS-52B	8/25/2016	0.76	1.69			0.000
BL-SS-52B	8/25/2016	1.00	2.22			0.000
BL-SS-53	8/25/2016	16.1	35.8	42.000	48.000	90.000
BL-SS-53A	8/25/2016	0.6	1.33			0.000
BL-SS-54	8/25/2016	0.74	1.65			0.000
BL-SS-55	8/25/2016	0.76	1.70			0.000
BL-SS-57	8/25/2016	0.79	1.77	4.500	3.700	8.200
BL-SS-58	8/24/2016	3.84	8.52	12.000	7.400	19.400
BL-SS-59	8/24/2016	1.49	3.30		0.033	0.033
BL-SS-63	8/25/2016	0.89	1.98	<0.011	<0.011	<0.11
BL-SB-63	8/24/2016	1.1	2.45			0.000
BL-SS-66	8/25/2016	1.58	3.50			0.000
BL-SS-67	8/24/2016	1.6	3.55	1.700	2.200	3.900
BL-SS-67 DUP	8/24/2016			1.200	1.600	2.800
BL-SB-67	8/24/2016	2.7	5.98			0.000
BL-SS-70	8/25/2016	1.32	2.92	37.000	48.000	85.000
BL-SS-73	8/25/2016	1.84	*4.09		2.400	2.400
BL-SS-74	8/25/2016	2.99	*6.64	2.100	5.300	7.400
BL-SS-75	8/25/2016	28.9	64	160.000	180.000	340.000

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October 6, 2016

VIA EMAIL

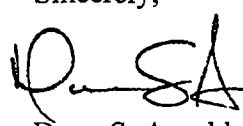
Mr. Ethan R. Ware
Williams Mullen
1441 Main Street, Suite 1250
Columbia, SC 29201
Phone: 803.567.4610
eware@williamsmullin.com

Re: Highland Industries Facilities Site
Chesterfield County, South Carolina

Dear Ethan:

We represent BGF Industries, Inc. I am traveling this week, but have received a copy of your October 4th letter regarding the above-referenced matter. I have not yet had an opportunity to review the almost 200 pages of exhibits that accompanied your letter, but understand that your client, Highland Industries, is scheduled to meet on October 13th with the South Carolina Department of Health and Environmental Control. Based on the information presented in your letter, it does not seem necessary or appropriate for BGF to attend that meeting. However, when I am back in the office next week, I would be glad to discuss this matter with you. Also, I would appreciate it if you would send all further communications to my attention.

Sincerely,

 w/express permission
by NAC

Doug S. Arnold

WILLIAMS MULLEN

Ethan R. Ware
Direct Dial: 803.567.4610
eware@williamsmullen.com

October 27, 2016

VIA Electronic and U.S. MAIL

Mr. Douglas S. Arnold
Alston & Bird, LLP
One Atlantic Center
1201 West Peachtree Street
Atlanta, GA 30309-3424
Doug.Arnold@alston.com

Re: Former Burlington PCB Site
650 Chesterfield Highway
Cheraw, South Carolina
Chesterfield County

Dear Doug:

As you may recall, we represent Highland Industries, Inc. in response to a Notice of Liability issued by the South Carolina Department of Health and Environmental Control (DHEC) for a release of PCB in Cheraw, South Carolina. We requested your client, BGF Industries, Inc., attend an October 13, 2016, meeting at DHEC to discuss the scope and extent of contamination at or near the Former Burlington PCB site; your client declined to voluntarily attend.

Enclosed is a Community Meeting Notice published by DHEC on October 25, 2016. The Community Meeting Notice states DHEC will hold a community meeting November 2, 2016, at Long Middle School (7:00 p.m.) in Cheraw "to discuss the [PCB contamination] data and the next steps." We encourage BGF Industries, Inc. to attend.

Please feel free to call if you have any questions. In the meantime, if you wish to discuss this matter directly with DHEC, BGF Industries, Inc. should contact Sara Bazemore, Esq. at 803-898-3350

Sincerely,
WILLIAMS MULLEN


Ethan R. Ware

ERW:kc
Enclosure

32248124_1



Community Meeting Notice

Environmental Contamination Investigation at Former Burlington Industrial Fibers James Plant

This notice is being released jointly by the South Carolina Department of Health and Environmental Control (DHEC) and the Town of Cheraw and is intended for the residents of Cheraw.

DHEC has recently discovered polychlorinated biphenyls (PCBs) and other chemical contamination in a drainage ditch behind the former Burlington Industrial Fibers James Plant located at 650 Chesterfield Highway in Cheraw, S.C. Contamination has also been found in sediments and soils in and along the ditch downstream to the Great Pee Dee River three miles away. This includes the downstream portions of Wilson's Branch and Huckleberry Branch. PCBs are man-made chemicals that were manufactured and used in many industrial applications from 1929 until they were banned from being made in the United States in 1979. The reason that PCBs were banned was because of concern for the lasting effects they have on the environment.

It is believed the PCB discharge occurred between 1961 and 1972 when the Town of Cheraw did not have a sanitary sewer system in place, and Town of Cheraw officials were not aware of any environmental contamination discharge.

The presence of PCBs was also confirmed in surface soils and creek sediments in Huckleberry Park located about one mile downstream from the former Burlington Plant. To protect public health and out of an abundance of caution, the Town of Cheraw and DHEC have temporarily closed the park while DHEC's investigation continues. The Town of Cheraw has posted signs and put up barrier tape around the park until the investigation into the contamination is finished and clean-up has taken place.

DHEC is currently conducting additional sampling in the area in order to fully determine the extent of the contamination and has requested assistance from the U.S. Environmental Protection Agency (EPA) in this ongoing investigation.

The first priority of both DHEC and the Town of Cheraw is ensuring the safety of residents and keeping the local community informed as our investigation progresses. **DHEC will hold a community meeting on November 2, 2016 at Long Middle School in Cheraw at 7 p.m., to discuss the data and the next steps.**

If you should have questions concerning this investigation or upcoming community meeting, please contact Leigh Plummer in DHEC's local Florence Office at (843) 661-4825, or by e-mail at plummelw@dhec.sc.gov.